

CHAPTER NO. 765

SENATE BILL NO. 2639

By Black

Substituted for: House Bill No. 2648

By Odom

AN ACT to amend Tennessee Code Annotated, Title 63, Chapter 13, relative to occupational therapy.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-13-103, is amended by deleting subdivisions (1) through (11), substituting instead the following language, and appropriately redesignating subsequent subdivisions:

63-13-103. As used in this chapter, unless the context otherwise requires:

(1) "ACOTE" means the Accreditation Council for Occupational Therapy Education, a nationally recognized accrediting agency for professional programs in the field of occupational therapy;

(2) "AOTA" means the American Occupational Therapy Association;

(3) "Board" means the board of occupational and physical therapy examiners;

(4) "Division" means the division of health related boards of the Department of Health;

(5) "NBCOT" means the National Board for Certification in Occupational Therapy;

(6) "Occupational therapist" means a person licensed to engage in occupational therapy practice under this chapter;

(7) "Occupational therapy assistant" means a person licensed to assist in occupational therapy practice under the supervision of an occupational therapist;

(8)(A) "Occupational therapy practice" means the therapeutic use of everyday life activities (occupations) for the purpose of enabling individuals or groups to participate in roles and situations in home, school, workplace, community and other settings. Occupational therapy addresses the physical, cognitive, psychosocial and sensory aspects of performance in a variety of contexts to support engagement in occupations that affect health, well-being and quality of life. Occupational therapy practice includes, but is not limited to:

(i) The screening, evaluation, assessment, planning, implementation and discharge planning of an occupational therapy program or services in consultation with the client, family members, caregivers and other appropriate persons;

(ii) Selection and administration of standardized and nonstandardized tests and measurements to evaluate factors affecting activities of daily living, instrumental activities of daily living, education, work, play, leisure and social participation, including:

(a) Body functions and body structures;

(b) Habits, routines, roles and behavior patterns;

(c) Cultural, physical, environmental, social and spiritual context and activity demands that affect performance; and

(d) Performance skills, including motor, process and communication/interaction skills;

(iii) Methods or strategies selected to direct the process of interventions, such as:

(a) Modification or adaptation of an activity or the environment to enhance performance;

(b) Establishment, remediation or restoration of a skill or ability that has not yet developed or is impaired;

(c) Maintenance and enhancement of capabilities without which performance in occupations would decline;

(d) Health promotion and wellness to enable or enhance performance and safety of occupations; and

(e) Prevention of barriers to performance, including disability prevention;

(iv) Interventions and procedures to promote or enhance safety and performance in activities of daily living, instrumental activities of daily living, education, work, play, leisure and social participation, including:

(a) Therapeutic use of occupations, exercises and activities;

(b) Training in self-care, self-management, home management and community/work reintegration;

(c) Development, remediation or compensation of physical, cognitive, neuromuscular and sensory functions and behavioral skills;

(d) Therapeutic use of self, including an individual's personality, insights, perceptions and judgments as part of the therapeutic process;

(e) Education and training of individuals, family members, caregivers and others;

(f) Care coordination, case management, discharge planning and transition services;

(g) Consulting services to groups, programs, organizations or communities;

(h) Assessment, recommendations and training in techniques and equipment to enhance functional mobility, including wheelchair management;

(i) Driver rehabilitation and community mobility; and

(j) Management of feeding and eating skills to enable feeding and eating performance;

(v) Management of occupational therapy services, including the planning, organizing, staffing, coordinating, directing or controlling of individuals and organizations;

(vi) Providing instruction in occupational therapy to students in an accredited occupational therapy or occupational therapy assistant educational program by persons who are trained as occupational therapists or occupational therapy assistants; and

(vii) Administration, interpretation and application of research to occupational therapy services.

(B) Occupational therapy services are provided for the purpose of promoting health and wellness to those clients who have, or are at risk of developing, illness, injury, disease, disorder, impairment, disability, activity limitation or participation restriction and may include:

(i) Training in the use of prosthetic devices;

(ii) Assessment, design, development, fabrication, adaptation, application, fitting and training in the use of assistive technology and adaptive and selective orthotic devices;

(iii) Application of physical agent modalities with proper training and certification;

(iv) Assessment and application of ergonomic principles;

(v) Adaptation or modification of environments (home, work, school or community) and use of a range of therapeutic procedures (such as wound care management, techniques to enhance sensory, perceptual and cognitive processing, and manual therapy techniques) to enhance performance skills, occupational performance or the promotion of health and wellness.

(C) Occupational therapy practice may occur in a variety of settings, including, but not limited to:

(i) Institutional inpatient settings, such as acute rehabilitation facilities, psychiatric hospitals, community and specialty hospitals, nursing facilities and prisons;

(ii) Outpatient settings, such as clinics, medical offices and therapist offices;

(iii) Home and community settings, such as homes, group homes, assisted living facilities, schools, early intervention centers, daycare centers, industrial and business facilities, hospices, sheltered workshops, wellness and fitness centers and community mental health facilities;

(iv) Research facilities; and

(v) Educational institutions.

(D) Occupational therapy practice includes specialized services provided by occupational therapists or occupational therapy assistants who are certified or trained in areas of specialization, which include, but are not limited to, hand therapy, neurodevelopmental treatment, sensory integration, pediatrics, geriatrics and neurorehabilitation, through programs approved by AOTA or other nationally recognized organizations;

(9) "Occupations" means everyday life activities, named, organized, and given value and meaning by individuals and their culture. The term includes everything that people do to occupy their time, including caring for their needs, enjoying life, and contributing to the social and economic fabric of their communities;

(10) "Unlicensed person working in occupational therapy" means a person who performs specific supportive tasks related to occupational therapy practice under the direct supervision of an occupational therapist or an occupational therapy assistant and whose activities do not require professional or advanced training in the basic anatomical, biological, psychological and social

sciences involved in the provision of occupational therapy services. Such persons are often referred to as aides, technicians, transporters or support staff;

SECTION 2. Tennessee Code Annotated, Section 63-13-104(b)(1), is amended by inserting the word “licensed” between the words “be” and “occupational” in the first sentence and is further amended by deleting the word “certified” in the second sentence and substituting the word “licensed” in its place.

SECTION 3. Tennessee Code Annotated, Section 63-13-106(b), is amended by deleting the words and number “fifty dollars (\$50.00)” in that subsection and substituting the words and number “one hundred dollars (\$100)”.

SECTION 4. Tennessee Code Annotated, Section 63-13-202, is amended by deleting the existing language in its entirety and substituting the following language in its place:

63-13-202. An applicant for licensure as an occupational therapist or as an occupational therapy assistant shall file an application showing, to the satisfaction of the committee of occupational therapy, that the applicant:

(1) Is of good moral character;

(2) Has successfully completed the academic requirements of an educational program accredited by ACOTE or its predecessor organization. The accredited program shall be a program for occupational therapists or a program for occupational therapy assistants, depending upon the category of licensure for which the applicant is applying;

(3) Has successfully completed the period of supervised fieldwork experience required by ACOTE; and

(4) Has made an acceptable score on a written or computerized examination designed to test the applicant's knowledge of the basic and clinical services related to occupational therapy, occupational therapy techniques and methods, and such other subjects as may help to determine an applicant's fitness to practice. The committee of occupational therapy shall approve an examination for occupational therapists and an examination for occupational therapy assistants and shall establish standards for acceptable performance on each examination. The committee is authorized to use the entry-level national examinations prepared and administered by NBCOT as the examinations used to test applicants for licensure as occupational therapists or occupational therapy assistants and is authorized to use the standards of NBCOT in determining an acceptable score on each examination.

SECTION 5. Tennessee Code Annotated, Section 63-13-205, is deleted in its entirety, and the following language is substituted in its place:

63-15-205. (a) A limited permit may be issued by the committee to an applicant who has applied for a license under § 63-13-202, has successfully completed the educational and field experience requirements of § 63-13-202(2) and (3), and is scheduled to take the examination required by § 63-13-202(4).

(b) An applicant who has received a limited permit must take the examination within ninety (90) days of the date the applicant received the limited permit. If the applicant does not take the examination within that ninety-day period, the limited permit expires at the end of the ninety-day period.

(c) If an applicant fails the examination, the applicant's limited permit expires upon the committee's receipt of notice that the applicant failed the examination.

(d) If an applicant passes the examination, the applicant's limited permit remains effective until the committee grants or denies a license to the applicant.

(e) An applicant may obtain a limited permit only once.

(f) A limited permit allows an applicant to engage in occupational therapy practice under the supervision of a licensed occupational therapist.

(g) The board shall adopt rules governing the supervision of persons to whom a limited permit has been issued. The rules shall address, at a minimum, initial and periodic inspections, written evaluations, written treatment plans, patient notes, and periodic evaluation of performance.

SECTION 6. Tennessee Code Annotated, Section 63-13-206, is amended by deleting the language of that section in its entirety and substituting the following language in its place:

63-13-206.

(a) A licensed occupational therapy assistant must practice under the supervision of an occupational therapist who is licensed in Tennessee.

(b) The supervising occupational therapist is responsible for all services provided by the occupational therapy assistant, including, but not limited to, the formulation and implementation of a plan of occupational therapy services for each client, and has a continuing responsibility to follow the progress of each client and to ensure the effective and appropriate supervision of the occupational therapy assistant according to the needs of the client.

(c) The supervising occupational therapist shall assign to the occupational therapy assistant only those duties and responsibilities that the occupational therapy assistant is qualified to perform.

(d) The board shall adopt rules governing the supervision of occupational therapy assistants by occupational therapists. Those rules may address the following:

(1) The manner in which the supervising occupational therapist oversees the work of the occupational therapy assistant;

(2) The ratio of occupational therapists to occupational therapy assistants required under different conditions and in different practice settings; and

(3) The documentation of supervision contacts between the supervising occupational therapist and the occupational therapy assistant.

(e) The rules adopted by the board shall recognize that the frequency, methods, and content of supervision of occupational therapy assistants by occupational therapists may vary by practice setting and are dependent upon the following factors, among others:

- (1) Complexity of the client's needs;
- (2) Number and diversity of clients;
- (3) Skills of the occupational therapy assistant and the supervising occupational therapist;
- (4) Type of practice setting; and
- (5) Requirements of the practice setting.

SECTION 7. Tennessee Code Annotated, Section 63-13-207(a), is amended by deleting the language of that subsection in its entirety and substituting the following language in its place:

63-13-207.

(a) A licensed physician, occupational therapist or licensed occupational therapy assistant may delegate to an unlicensed person specific routine tasks associated with nontreatment aspects of occupational therapy practice that are not evaluative, assessive, task selective, or recommendational in nature and do not require making decisions or making assessment or treatment entries in official patient records, if the following conditions are met:

- (1) The physician, occupational therapist or occupational therapy assistant accepts professional responsibility for the performance of that duty by the person to whom it is delegated. In the case of duties delegated by an occupational therapy assistant, the occupational therapy assistant, the physician, and occupational therapist who supervises the occupational therapy assistant shall be responsible;
- (2) The unlicensed person does not perform any duties that require licensure under this act; and
- (3) The physician, occupational therapist or occupational therapy assistant ensures that the unlicensed person has been appropriately trained for the performance of the tasks.

SECTION 8. Tennessee Code Annotated, Section 63-13-208(a), is amended by deleting the language of that subsection in its entirety and substituting the following language in its place:

(a) Nothing in this part shall be construed as preventing or restricting the practice, services or activities of:

(1) Any person licensed under any chapter of Title 63;

(2) Any person employed as an occupational therapist or occupational therapy assistant by an agency of the United States government, while providing occupational therapy services in that capacity;

(3) Any person pursuing a course of study leading to a degree or certificate in occupational therapy in an educational program accredited or granted "Developing Program Status" by ACOTE if:

(A) Such activities and services constitute a part of a supervised course of study; and

(B) Such person is designated by a title that clearly indicates such person's status as a student;

(4) Any person fulfilling the supervised fieldwork experience requirements of § 63-13-202(3), if such activities and services constitute a part of the experience necessary to meet the requirements of that subsection;

(5) An occupational therapist or occupational therapy assistant who is licensed or certified to practice in another state which has licensure or certification requirements at least as stringent as the requirements of this part, while in Tennessee for the purpose of providing educational, consulting or training services for no more than fourteen (14) days in a calendar year; and

(6) Any person who is certified by the National Council for Therapeutic Recreation Certification as a Certified Therapeutic Recreation Specialist, while engaged in practicing the profession of recreation therapy.

SECTION 9. Tennessee Code Annotated, Section 63-13-209, is amended by adding the following language as a new subdivision (15) and renumbering the subsequent subdivisions accordingly:

(15) Violating the code of ethics adopted by the board;

SECTION 10. Tennessee Code Annotated, Section 63-13-211(a), is amended by adding the acronym "OTA" following the acronym "OT", by deleting the acronym "LOT" and substituting in its place the acronym "OT/L", and by adding the acronym "OTA/L" following the new acronym "OT/L" in the second sentence of that subsection.

SECTION 11. Tennessee Code Annotated, Section 63-13-213, is amended by deleting the existing language in its entirety and substituting the following language in its place:

63-13-213. The committee of occupational therapy may grant a license to an applicant who presents proof of current licensure or certification as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or territory of the United States and who possesses educational and experiential qualifications which meet or exceed the requirements for licensure in Tennessee, as determined by the committee of occupational therapy.

SECTION 12. Tennessee Code Annotated, Section 63-13-214, is amended by deleting the current language in its entirety and substituting the following language in its place:

63-13-214. Applicants for licensure who have completed educational programs outside the United States shall furnish proof of good moral character and of completion of an educational program and supervised fieldwork substantially similar to those contained in § 63-13-202(2) and (3) and shall satisfy the examination requirements of § 63-13-202(4).

SECTION 13. Tennessee Code Annotated, Section 63-13-215, is amended by designating the existing language as subsection (a) and adding the following language as a new subsection (b):

(b) Any person licensed by the committee of occupational therapy may place such person's license on inactive status by filing the proper forms with the committee and by paying a biennial fee in accordance with rules adopted by the committee. If such person thereafter reengages in active practice in this state, such person shall apply for relicensure with the committee, as provided by this part, and shall meet such continuing education requirements as are established by the committee, except for good and sufficient reasons as determined by the committee.

SECTION 14. This act shall take effect July 1, 2006, the public welfare requiring it.

PASSED: May 15, 2006


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 26th day of May 2006


PHIL BREDESEN, GOVERNOR